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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,936	03/22/2001	Wayne Morgan John	713-409	1825

7590

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EXAMINER
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CHEVALIER, ALICIA ANN

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/813,936

Applicant(s)

JOHN ET AL.

Examiner

Alicia Chevalier

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6,7,9,11-14,16,17,21,35-38,40-44,46 and 48-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6,7,9,11-14,16,17,21,41-44,46 and 60 is/are allowed.
- 6) ☒ Claim(s) 35-38,40,48-59 and 61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **RESPONSE TO AMENDMENT**

1. Claims 6, 7, 9, 11-14, 16, 17, 21, 35-38, 40-44, 46 and 48-61 are pending in the application, claims 1-5, 8, 10, 15, 18-20, 22-34, 39, 45 and 47 have been cancelled.
2. Amendments to the claims, filed on September 16, 2004, have been entered in the above-identified application.

### ***WITHDRAWN REJECTIONS***

3. The 35 U.S.C. §103 rejection of claims 35-39, 43, 44, 49-55, 57, 59 and 61 as over Harvison (US Patent No. 5,380,549) in view of Hedblom (US Patent No. 5,593,246) and evidenced by Applicant's specification, made of record in office action mailed June 16, 2004, pages 2-8, paragraph #5 has been withdrawn due to Applicant's amendment in the response filed September 16, 2004.

### ***REJECTIONS***

4. **The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.**

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 35, 36, 38, 40 and 61 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the instant case amended claim 35 contains the limitation “substantially flat” which is not supported by the specification. Applicant argues that support for this limitation is on the paragraph bridging pages 4-5.

The specification on pages 4-5 recites:

Example (a weather resistant anti-slip panel)

A sheet of weather resistant, glass reinforced, rigid plastic, for example an unsaturated polyester based on an orthophthalic resin filled with e-glass fibre, 2000-3000 mm long x 1000-2000 mm wide x 3-3.5 mm thick; forms a substrate having a Shore D hardness between 80 and 100 (American Standard Test Method ASTM 2240). A fixed, panel test piece 100 mm long x 20 mm wide x 3.5 mm thick has a maximum panel deflection of 250 when 1 kg is suspended from the free end of the test piece. The panel has a regular grid pattern of 25 mm squares formed on the working surface thereof by laying down lines of 5 mm wide self-adhesive masking tape; the intersections of the grid lines form drilling areas or points for fixing holes. A coating of a base resin, for example an unsaturated polyester based on an orthophthalic resin, was then applied to the working surface with a coverage of approximately 0.1-0.15 kg per sq. metre and aluminium oxide aggregate particle size 0.85-1.7 mm was sprinkled onto the coating with a coverage of 1.8-2.0 Kg per sq. metre; to produce a covering thickness of between 1 and 3 mm, of which up to 2.7 mm will be aggregate. The aggregate is an angular and cubic particulate with a minimum Polished. Stone Value of between 50 to 100 and a mohs hardness of between 9 and 10. Excess aggregate was tipped off and the masking tape was removed prior to curing. Once the coating had been permitted to cure, further excess aggregate was brushed off, to leave a pattern of lines of cuttable, coating-free substrate on the or each working surface of the panel. The patterned, coated surface can be over-rolled or over-coated with resin, for example the same unsaturated polyester based on an orthophthalic resin, with a coverage of 0.45-0.50 Kg per sq. metre, to further improve bonding of the aggregate to the substrate, to enhance durability and to look clean and tidy aesthetically. The finished panel has a coefficient of friction (COF) of > 0.95 when dry, >0.70 when wet and >0.40 when oily.

It is assumed that Applicant is arguing that support for the limitation “substantially flat” is from “a sheet ... 2000-3000 mm long x 1000-2000 mm wide x 3-3.5 mm thick” and “a fixed, panel test piece 100 mm long x 20 mm wide x 3.5 mm thick”. The Examiner respectfully disagrees with the assertion that the recitation that the panel has a thickness of 3-3.5 mm enables support for the limitation “substantially flat,” since “substantially flat” is much broader in scope. Applicant only has support for a panel with thickness of 3-3.5 mm.

The new matter should be deleted.

7. Claims 37 and 48 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the instant case amended claim 37 contains the limitations "said coating defining a regular grid pattern of uncoated cutting lines and coated regions separated by said uncoated cutting lines on the working surface" and "the width of the cutting lines is smaller than the width of the coated regions" which is not supported by the specification. Applicant argues that support for this limitation is on the paragraph bridging pages 4-5 (see above).

Applicant specifically argues that the passage "a regular pattern of 25 mm squares formed on the working surface thereof by laying down lines of 5 mm wide self-adhesive tape" is supportive of the broader limitations "said coating defining a regular grid pattern of uncoated cutting lines and coated regions separated by said uncoated cutting lines on the working surface" and "the width of the cutting lines is smaller than the width of the coated regions." While Applicant has support for the specific regular grid pattern recited in the example, Applicant does not have support for a broad range of any regular grid pattern where the width of the cutting lines are smaller than the width of the coated regions.

The new matter should be deleted.

8. Claims 49-59 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant

art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the instant case amended claim 49 contains the limitations “wherein an entire thickness of said panel in the uncoated region is greater than half the entire thickness of said panel, including the substrate and the coating, in the coated region” which is not supported by the specification. Applicant argues that support for this limitation is on the paragraph bridging pages 4-5 (see above).

It is assumed that Applicant is arguing that support for the limitation comes from the recited thickness of the panel and the coating. While Applicant has support for the specific thickness of each layer, Applicant does not have support for a broad range of wherein an entire thickness of said panel in the uncoated region is greater than half the entire thickness of said panel, including the substrate and the coating, in the coated region.

The new matter should be deleted.

9. Claims 35, 36, 38, 40 and 61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The limitation “substantially flat” in claim 35 is unclear which renders that claim vague and indefinite. The phrase “substantially” is a term of degree and the specification does not have support for the limitation “substantially flat”.

***Allowable Subject Matter***

10. Claims 6, 7, 9, 11-14, 16, 17, 21, 41-44, 46 and 60 are allowed.

**ANSWERS TO APPLICANT'S ARGUMENTS**

11. Applicant's arguments in response filed September 16, 2004 regarding the 35 U.S.C. 103 rejections of record have been considered but are moot due to the new grounds of rejection.

**Conclusion**

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

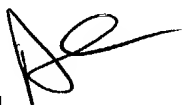
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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11/22/04



  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER

1772

11/23/04